

**State of Kansas  
Department of Health and Environment**

**Notice of Hearing on Proposed Administrative Regulations**

The Kansas Department of Health and Environment, Division of Health, Bureau of Family Health, will conduct a public hearing at 10 a.m. Friday, January 31, 2014, in Room 530 of the Curtis State Office Building, 1000 S.W. Jackson, Topeka, to consider adoption of new regulations K.A.R. 28-4-1250 through 28-4-1269, pertaining to staff secure facilities. These regulations incorporate the requirements in K.S.A. 2013 Supp. 65-535. They are being proposed as temporary regulations and as permanent regulations.

A summary of the proposed regulations and the estimated economic impact follows:

**Summary of Regulations:**

**K.A.R. 28-4-1250. Definitions.** Provides specific definitions of terms used in regulations for staff secure facilities.

**K.A.R. 28-4-1251. Applicant, permittee, and licensee requirements.** Describes the application process, including license fee. Applicant must be a government subdivision or person with a governing board. If a corporation, must be in good standing with secretary of state. Applicant must develop policies and procedures for facility operation. Requires floor plan showing separation from other facilities and fire marshal's approval regarding safety of entrances and exits. Requires notification to local school district. Before opening date, staff must complete training. Addresses compliance with building codes, fire safety requirements, and zoning codes. Secretary may refuse to grant a license if applicant is not in compliance with applicable statutes and these regulations.

**K.A.R. 28-4-1252. Terms of a temporary permit or license.** Temporary permit or license

required to operate a facility. Temporary permit or license valid only for permittee or licensee and specified address; capacity shall not be exceeded; temporary permit or license must be posted. New application required if owner or location changes. Changes to building use, structure, program, or staff training requirements require prior approval of the secretary.

Information is provided on license renewal, requests for exceptions, requests for amendments to the license. Withdrawal of application or closure of a facility is addressed.

**K.A.R. 28-4-1253. Background checks.** Requires background checks to comply with K.S.A. 65-516.

**K.A.R. 28-4-1254. Administration.** Describes requirements for facility operation, including organizational chart, administrative policies and procedures, and employing an administrator and a clinical director. Requires implementation of policies and procedures for facility operation. Confidentiality of residents' information must be ensured. Program, services, and living units must be separate from any other child care facility. Staff and volunteers must be informed of and follow policies and procedures. Regulations governing facilities must be kept on premises and available to staff. All contracts, agreements, policies and procedures must be reviewed annually.

**K.A.R. 28-4-1255. Staff member requirements.** Each individual working or volunteering must be qualified by temperament, maturity, judgment, understanding of residents. Staff member performing duties of more than one position must meet requirements for both. Describes requirements for all types of staff members and for volunteers. Lists orientation and in-service training requirements.

**K.A.R. 28-4-1256. Records.** Requires organized record-keeping system. Lists the required contents of records for residents, staff members, volunteers, and the facility.

**K.A.R. 28-4-1257. Notification and reporting requirements.** Lists the requirements for notification and reporting of incidents or events, by type. Requires a written report within five days of an incident or event.

**K.A.R. 28-4-1258. Admission and release.** Policies and procedures must be implemented for admissions and releases. No individual admitted unless authorized by Kansas code for care of children and K.S.A. 2013 Supp. 65-535. Describes the preadmission health screening and admissions procedures. Prohibits staff or volunteer from accepting permanent legal guardianship of a resident. Describes the resident release procedures.

**K.A.R. 28-4-1259. Health care.** Requires implementation of policies and procedures for health care of residents, including a health checklist and follow-up care. Describes requirements for the physical health of residents, emergency medical treatment, oral health, and personal health and hygiene. Describes requirements for personal health of staff and volunteers. Prohibits the use of tobacco products inside the facility or in the presence of residents.

**K.A.R. 28-4-1260. Case management.** Requires assignment of a case manager to provide or coordinate services to each resident. Requires a plan of care for each resident with goals and services required.

**K.A.R. 28-4-1261. Program.** Requires implementation of policies and procedures for the program; prohibits discrimination against any resident. Describes the program to be provided to residents. Individualized plan of care for each resident must be reviewed and updated; describes requirements to be included in the plan. Lists the services to be provided, including mental health, substance abuse, and life skills training. Describes requirements for visitation and communication with residents by individuals outside the facility.

**K.A.R. 28-4-1262. Behavior management.** Requires implementation of policies and procedures for the behavior management of residents, including a rule book of expected behaviors. Lists the prohibited punishments; states that no staff member or volunteer shall make sexual remarks or advances or engage in physical intimacies or sexual activities with any resident or exercise undue influence or duress. Prohibits use of medication, herbal or folk remedies, or drugs to control behavior. No resident forced to participate in publicity or promotional activities.

**K.A.R. 28-4-1263. Staff member schedule; supervision of residents.** Describes requirements for staff schedules and ratios of staff members to residents. Describes requirements for supervision of residents. Requires implementation of policies and procedures for determining when increased direct supervision of a resident is required.

**K.A.R. 28-4-1264. Emergency plan; safety, security and control.** Describes requirements for an emergency plan. Requires fire and tornado drills. Requires implementation of policies and procedures for supervision, inspection, and accountability to promote safe and orderly operations. Lists requirements for the policies and procedures. Describes requirements for storage and use of hazardous substances and unsafe items. Lists requirements for first-aid supplies.

**K.A.R. 28-4-1265. Environmental requirements.** Describes general building requirements and for location and grounds. Lists the requirements if a swimming pool is on the premises. Addresses structural requirements and the use of space, including sleeping rooms, living units, and space for visitation and screening/search of residents and visitors. Describes requirements for bathrooms and drinking water. Lists the building maintenance standards.

**K.A.R. 28-4-1266. Food services.** Describes requirements for sanitary practices, nutrition, food service and preparation, food storage and refrigeration, meals or snacks prepared on the premises,

meals and snacks catered, table service and cooking utensils.

**K.A.R. 28-4-1267. Laundry.** Requires laundry facilities be located separate from food preparation areas. Requires adequate space for storage of clean and dirty linen and clothing. Addresses laundering of blankets. Describes requirements for mattresses.

**K.A.R. 28-4-1268. Transportation.** Requires implementation of policies and procedures for transporting residents. Safety checks required on transporting vehicles. Addresses insurance, first-aid kit in each vehicle, seat belts. Describes health and safety requirements for residents in any vehicle. Requires each resident be transported directly to designated location with no unauthorized stops.

**K.A.R. 28-4-1269. Animals.** Lists the requirements if animals are on the premises.

**Economic Impact:**

Cost to the agency: There is no additional cost to the agency. Costs will be absorbed in the current budget.

Cost to licensees: These regulations were developed to implement provisions of K.S.A. 2013 Supp. 65-535, concerning human trafficking. While similar types of residential child care facilities are licensed by the department, this is a new type of residential facility. The costs are therefore unknown at this time.

Costs to other governmental agencies or units: There is no known additional cost associated with implementation of the facility licensing regulations.

The time period between publication of this notice and the scheduled hearing serves as the required public comment period of at least 60 days for the purpose of receiving written public comments on the proposed new regulations. At any time during the public comment period any

interested parties may submit written comments to Dorothy Tenney, KDHE, Child Care Licensing Program, 1000 S.W. Jackson, Suite 200, Topeka, 66612-1274, by fax at 785-296-0803, or by e-mail to [dtenney@kdheks.gov](mailto:dtenney@kdheks.gov). Written comments will be accepted until 5 p.m. on the day of the hearing. During the hearing, all interested parties will be given a reasonable opportunity to present their views orally on the proposed new regulations as well as an opportunity to submit their written comments. In order to give each individual an opportunity to present their views, it may be necessary for the hearing officer to request that each presenter limit any oral presentation to an appropriate time frame.

Complete copies of the proposed regulations and the corresponding economic impact statement may be obtained on the Child Care Licensing website at [www.kdheks.gov/kidsnet/](http://www.kdheks.gov/kidsnet/) or by contacting Dorothy Tenney, at the address above, (785) 296-1270, or fax (785) 296-0803.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Dorothy Tenney.

Robert Moser, M.D.

Secretary of Health and Environment

K.A.R. 28-4-1250. Definitions. (a) “Administrator” means the individual employed by a facility who is responsible for the daily operation of the facility.

(b) “Applicant” means a person who has applied for a license but who has not yet been granted a temporary permit or a license to operate a facility.

(c) “Auxiliary staff member” means a type of staff member working at a facility in food services, clerical services, or maintenance. This term shall also apply to individuals working in the facility for the purpose of observation of facility entrances and exits.

(d) “Basement” means each area in a building with a floor level more than 30 inches below ground level on all sides.

(e) “Case management” means the comprehensive written goals and services developed for each resident and the provision of those services directly by the staff members or through other resources.

(f) “Case manager” means an individual who is designated by the permittee or licensee to coordinate the provision of services to residents by staff members or other individuals or agencies and who meets the requirements for a case manager in K.A.R. 28-4-1255(f).

(g) “Clinical director” means the individual at a facility who is responsible for the mental health services and who meets the requirements for a clinical director in K.A.R. 28-4-1255(d).

(h) “Department” means Kansas department of health and environment.

(i) “Direct care staff member” means an individual whose primary responsibility is to implement the program on a daily basis, including providing direct supervision of, interaction with, and protection of the residents and who meets the requirements for a direct care staff member in K.A.R. 28-4-1255(h).

(j) “Direct supervision” means the physical presence of staff members in proximity to allow for interaction and direct eye contact with residents.

(k) “In-service training” means job-related training provided for staff members and volunteers.

(l) “License capacity” means the maximum number of residents authorized to be in the facility at any one time.

(m) “Licensed physician” means an individual who is licensed to practice either medicine and surgery or osteopathy in Kansas by the Kansas state board of healing arts.

(n) “Licensee” means a person who has been granted a license to operate a facility.

(o) “Living unit” means the self-contained building or portion of a building in which the facility is operated and maintained, including the sleeping rooms, bathrooms, and areas used by residents for activities, dining, classroom instruction, library services, and indoor recreation.

(p) “Permittee” means a person who has applied for a license and has been granted a temporary permit by the secretary to operate a facility.

(q) “Placing agent” means law enforcement, a state agency, or court possessing the legal authority to place a resident in a facility.

(r) “Professional staff member” means a staff member who is one of the following:

(1) The clinical director;

(2) a licensed physician;

(3) an individual licensed by the Kansas behavioral sciences regulatory board;

(4) a teacher licensed by the Kansas state department of education;



- (5) a physician's assistant licensed in Kansas by the Kansas state board of healing arts;
- (6) a professional nurse licensed by the Kansas state board of nursing;
- (7) an advanced practice registered nurse (APRN) licensed by the Kansas state board of nursing;
- (8) a dietician licensed by the Kansas department for aging and disability services; or
- (9) a case manager.
- (s) "Program" means the comprehensive and coordinated set of activities and social services providing for the care, health, and safety of residents while in the care of the facility.
- (t) "Resident" means an individual who is placed in a facility as authorized by the revised Kansas code for the care of children, K.S.A. 2013 Supp. 38-2201 et seq., and K.S.A. 2013 Supp. 65-535, and amendments thereto.
- (u) "Secretary" means secretary of the Kansas department of health and environment.
- (v) "Staff member" means any individual employed at a facility, including auxiliary staff members, direct care staff members, and professional staff members.
- (w) "Staff secure facility" and "facility" mean a type of "child care facility," pursuant to K.S.A. 65-503 and amendments thereto, that meets the requirements in K.S.A. 2013 Supp. 65-535, and amendments thereto.
- (x) "Trauma-informed care" means the services provided to residents based on an understanding of the vulnerabilities and the emotional and behavioral responses of trauma survivors.

(y) “Trauma-specific intervention” means intervention techniques designed specifically to address the consequences of trauma in residents and to facilitate recovery, including the interrelation between presenting symptoms of trauma and each resident’s past history of trauma.

(z) “Tuberculosis test” means either the Mantoux skin test or an interferon gamma release assay (IGRA).

(aa) “Volunteer” means an individual or group that provides services to residents without compensation.

(bb) “Weapons” means any dangerous or deadly instruments, including the following:

(1) Firearms;

(2) ammunition;

(3) air-powered guns, including BB guns, pellet guns, and paint ball guns;

(4) any knives, except knives designed and used for table service;

(5) archery equipment; and

(6) martial arts equipment. (Authorized by K.S.A. 2013 Supp. 65-508 and 65-535; implementing K.S.A. 2013 Supp. 65-503 and 65-535; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

K.A.R. 28-4-1251. Applicant, permittee, and licensee requirements. (a) Each applicant shall submit a complete application on forms provided by the department. The application shall be submitted at least 90 calendar days before the planned opening date of the facility and shall include the following:

(1) A description of the program and services to be offered, including the following:

(A) A statement of the facility's purpose and goals; and

(B) the number, ages, and gender of prospective residents;

(2) the anticipated opening date;

(3) a request for the background checks for staff members and volunteers specified in

K.A.R. 28-4-1253;

(4) the facility's policies and procedures required in subsection (d); and

(5) the license fee totaling the following:

(A) \$75; and

(B) \$1 multiplied by the maximum number of residents to be authorized under the license.

(b) Each applicant shall be one of the following entities:

(1) A government or governmental subdivision, which shall employ an administrator; or

(2) a person, other than a government or governmental subdivision, with a governing board that is responsible for the operation, policies, finances, and general management of the facility. The applicant shall employ an administrator. The administrator shall not be a voting member of the governing board.

(c) Each applicant, each permittee, and each licensee, if a corporation, shall be in good

standing with the Kansas secretary of state.

(d) Each applicant shall develop policies and procedures for operation of the facility to meet the requirements in these regulations and in K.S.A. 2013 Supp. 65-535, and amendments thereto.

(e) Each applicant shall submit to the department floor plans for each building that will be used as a facility. Each floor plan shall show how the facility is separated from any other child care facility. Each applicant shall obtain and submit to the department prior written approval from the Kansas state fire marshal regarding the safety of entrances and exits.

(f) Each applicant shall notify the school district where the facility is to be located at least 90 calendar days before the planned opening date. The 90-day notification to the local school district may be waived by the secretary upon receipt of a written agreement by the local school district. The notification to the school district shall include the following:

(1) The planned opening date and the number, age range, gender, and anticipated special education needs of the residents to be served;

(2) a statement that the residents will receive educational services on-site at the facility;  
and

(3) documentation that the notification was received by the school district at least 90 calendar days before the planned opening date.

(g) Each applicant shall maintain documentation of completion of training required in K.A.R. 28-4-1255(k) by each staff member and each volunteer before the opening date of the facility.

(h) Each applicant, each permittee, and each licensee shall maintain documentation of compliance with all applicable building codes, fire safety requirements, and zoning codes.

(i) The granting of a license to any applicant may be refused by the secretary if the applicant is not in compliance with the requirements of all applicable statutes and regulations governing facilities. (Authorized by K.S.A. 2013 Supp. 65-508 and 65-535; implementing K.S.A. 65-501 and K.S.A. 2013 Supp. 65-504, 65-505, 65-508, 65-516, and 65-535; effective,

T-\_\_\_\_\_, \_\_\_\_\_; effective

P-\_\_\_\_\_.)

K.A.R. 28-4-1252. Terms of a temporary permit or license. (a) Temporary permit or license required. No person shall operate a facility unless the person has been issued a temporary permit or a license by the secretary.

(b) Each permittee and each licensee shall ensure that the following requirements are met:

(1) Each temporary permit or license shall be valid only for the permittee or licensee and for the address specified on the temporary permit or the license. When an initial or amended license becomes effective, all temporary permits or licenses previously granted to the permittee or licensee at the same address shall become void.

(2) The maximum number, the age range, and the gender of residents authorized by the temporary permit or the license shall not be exceeded.

(3) The current temporary permit or the current license shall be posted conspicuously within the facility.

(c) New application required. A new application and the fee specified in K.A.R. 28-4-1251(d) shall be submitted for each change of ownership or location at least 90 calendar days before the planned change.

(d) Changes. Each applicant, each permittee, and each licensee shall obtain the secretary's written approval before making any change in any of the following:

(1) The use or proposed use of the buildings;

(2) the physical structure of any building, including the following:

(A) An addition or alteration as specified in K.A.R. 28-4-1265(a)(2)(B);

(B) the use of locked entrances; and

(C) any delayed-exit mechanisms;

(3) the program, provided through either direct services or agreements with specified individuals or community resources; or

(4) orientation topics or required in-service training.

(e) Renewals.

(1) No earlier than 90 calendar days before the renewal date but no later than the renewal date, each licensee shall complete and submit an application for renewal on forms provided by the department, including the requests for background checks specified in K.A.R. 28-4-1253, and the fee specified in K.A.R. 28-4-1251(d).

(2) Failure to submit the renewal application and fee within 30 days after the expiration of the license shall result in an assessment of a late renewal fee pursuant to K.S.A. 65-505, and amendments thereto, and may result in closure of the facility.

(f) Exceptions. Any applicant, permittee, or licensee may request an exception to a specific facility regulation or any portion of a specific facility regulation. Each request shall be submitted to the secretary on a form provided by the department. A copy of each request shall be provided to the Kansas department for children and families and the office of the Kansas attorney general.

(1) A request for an exception may be granted if the secretary determines that the exception is not detrimental to the health, safety, and welfare of one or more residents or the family of a resident and the exception does not violate statutory requirements.

(2) Written notice from the secretary stating the nature of each exception and its

duration shall be kept on file at the facility and shall be readily accessible to the department and the Kansas department for children and families.

(g) Amendments. Any licensee may submit a written request for an amended license.

(1) Each licensee who intends to change the terms of the license, including the maximum number, the age range, or the gender of residents to be served, shall submit a request for an amendment on a form provided by the department and a nonrefundable amendment fee of \$35. An amendment fee shall not be required if the request to change the terms of the license is made at the time of license renewal.

(2) Each request for a change in the maximum number, the age range, or the gender of residents to be served shall include written documentation of the notification to the school district where the facility is located, as specified in K.A.R. 28-4-1251(f).

(3) The licensee shall make no change to the terms of the license, including the maximum number of residents, the age range of residents to be served, the gender of residents, and the type of license, unless an amendment has been granted, in writing, by the secretary.

(h) Closure. Any applicant or permittee may withdraw the application for a license. Any licensee may submit, at any time, a request to close the facility operated by the licensee. If an application is withdrawn or a facility is closed, the current temporary permit or license granted to the permittee or licensee for that facility shall become void. (Authorized by K.S.A. 2013 Supp. 65-508 and 65-535; implementing K.S.A. 2013 Supp. 65-504, 65-505, 65-508, 65-516, and 65-535; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)



K.A.R. 28-4-1253. Background checks. (a) With each initial application or renewal application, each applicant or licensee shall submit a request to conduct a background check by the Kansas bureau of investigation and a background check by the Kansas department for children and families in order to comply with K.S.A. 65-516, and amendments thereto. Each request shall be submitted on a form provided by the department. Each request shall list the required information for each individual 10 years of age and older who will be residing, working, or volunteering in the facility.

(b) Each applicant, each permittee, and each licensee shall submit a request to the department to conduct a background check by the Kansas bureau of investigation and a background check by the Kansas department for children and families before each individual begins residing, working, or volunteering in the facility.

(c) A background check shall not be required for any resident admitted to a facility.

(d) A copy of each request for a background check shall be kept on file at the facility.

(Authorized by K.S.A. 2013 Supp. 65-508; implementing K.S.A. 2013 Supp. 65-516; effective,

T-\_\_\_\_\_, \_\_\_\_\_; effective

P-\_\_\_\_\_.)

K.A.R. 28-4-1254. Administration. (a) Each permittee and each licensee shall be responsible for the operation of the facility, including the following:

(1) Developing an organizational chart designating the lines of authority and ensuring that all staff members know which staff member is in charge at any time;

(2) developing and implementing administrative policies and procedures for the operation of the facility, which shall include sufficient staff members to supervise and provide services to residents;

(3) employing an administrator; and

(4) employing a clinical director.

(b) Each permittee and each licensee shall implement policies and procedures for the operation of the facility that shall include detailed descriptions of the roles and responsibilities for each staff member and each volunteer.

(c) Each permittee and each licensee shall ensure the confidentiality of each resident's information.

(d) Each permittee and each licensee shall ensure that the program, all services, and living units of the facility are separate from the children or youth in and the living units used by any other child care facility.

(e) Each permittee and each licensee shall ensure that each staff member and each volunteer is informed of and follows all written policies and procedures necessary to carry out that staff member's or volunteer's job duties.

(f) Each permittee and each licensee shall ensure that a copy of the regulations governing facilities is kept on the premises at all times. A copy of the regulations shall be made available

to all staff members.

(g) Each licensee shall ensure that all contracts, agreements, policies, and procedures are reviewed annually and updated as needed. (Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

K.A.R. 28-4-1255. Staff member requirements. (a) Staff members and volunteers. Each individual working or volunteering in a facility shall be qualified by temperament, emotional maturity, judgment, and understanding of residents necessary to maintain the health, comfort, safety, and welfare of residents.

(b) Multiple duties. Each staff member performing duties of more than one position shall meet the minimum qualifications for each position held.

(c) Administrator.

(1) Each administrator shall be licensed or approved by the Kansas behavioral sciences regulatory board, the Kansas board of nursing, or the Kansas board of healing arts to diagnose and treat mental and behavioral disorders.

(2) Each administrator shall demonstrate knowledge of the principles and practices of administration and management.

(3) Each administrator shall have at least three years of supervisory experience within a child care facility providing treatment to children or youth.

(d) Clinical director. Each clinical director shall be licensed or approved by the Kansas behavioral sciences regulatory board, the Kansas board of nursing, or the Kansas board of healing arts to diagnose and treat mental and behavioral disorders.

(e) Substance abuse counselor. Each substance abuse counselor shall be responsible for the screening and treatment of residents for substance abuse. The substance abuse counselor shall be licensed by the Kansas behavioral sciences regulatory board, Kansas board of nursing, or Kansas board of healing arts to diagnose and treat addictions and substance abuse.

(f) Case manager. Each case manager shall be licensed by the Kansas behavioral sciences regulatory board.

(g) Professional staff members. Each professional staff member shall maintain current licensure, certification, or registration for that staff member's profession.

(h) Direct care staff members. Each direct care staff member shall meet all of the following requirements:

(1) Be 21 years of age or older;

(2) have a high school diploma or equivalent; and

(3) have completed one of the following:

(A) A bachelor's degree from an accredited college or university and one year of experience supervising children or youth in a child care facility;

(B) 60 semester hours from an accredited college or university and two years of experience supervising children or youth in a child care facility; or

(C) four years of experience supervising children or youth in a child care facility.

(i) Auxiliary staff members. Each permittee and each licensee shall ensure that the following requirements are met for auxiliary staff members:

(1) Auxiliary staff members shall be available as needed for the operation of the facility and the provision of services to residents.

(2) No auxiliary staff member shall be included in meeting the minimum ratio of direct care staff members to residents. Direct care staff members shall maintain direct supervision of the residents.

(3) Each auxiliary staff member working at the facility for the purpose of observing facility entrances and exits shall meet the requirements of K.S.A. 2013 Supp. 65-535, and amendments thereto.

(4) Each auxiliary staff member working in food service shall demonstrate compliance with all of the following requirements through ongoing job performance:

- (A) Knowledge of the nutritional needs of residents;
- (B) understanding of quantity food preparation and service;
- (C) sanitary food handling and storage methods;
- (D) understanding of individual, cultural, and religious food preferences; and
- (E) ability to work with the case manager in planning learning experiences for residents about nutrition.

(j) Volunteers. Each permittee and each licensee shall ensure that the following requirements are met for any volunteer who has direct contact with residents:

(1) There shall be a written plan for orientation, training, supervision, and tasks for each volunteer.

(2) Each volunteer shall submit to the administrator an application for volunteering at the facility.

(3) Each volunteer whose job description includes the provision of program services to

residents shall meet the same requirements as those of a staff member in that position. No volunteer shall perform tasks for which the volunteer is not qualified or licensed.

(4) No volunteer shall be counted in the minimum ratio of direct care staff members to residents. Each volunteer shall be supervised at all times by a staff member.

(k) Staff member and volunteer training. Each permittee and each licensee shall assess the training needs of each staff member and each volunteer and shall provide orientation and in-service training. Documentation of the training shall be kept in each staff member's and each volunteer's record and shall be accessible for review by the secretary or secretary's designee.

(1) Each staff member and each volunteer shall complete at least 10 clock-hours of orientation training within seven calendar days after the initial date of employment or volunteering. The orientation training shall include the following topics:

(A) Facility policies and procedures, including emergency procedures, behavior management, and discipline;

(B) individual job duties and responsibilities;

(C) confidentiality;

(D) security procedures;

(E) recognition of the signs and symptoms and the reporting of suspected child abuse and neglect;

(F) the signs and symptoms of infectious disease, infection control, and universal precautions;

- (G) statutes and regulations governing facilities;
- (H) the schedule of daily activities;
- (I) principles of trauma-informed care;
- (J) indicators of self-harming behaviors or suicidal tendencies; and
- (K) care and supervision of residents.

(2) Each direct care staff member shall complete an additional 40 clock-hours of orientation training before assuming direct supervision and before being counted in the ratio of direct care staff members to residents. Each volunteer who has direct contact with residents shall complete the additional 40 clock-hours of training before providing services to residents.

The additional training shall include the following topics:

- (A) Crisis management;
- (B) human trafficking and exploitation;
- (C) indicators of self-harming behaviors or suicidal tendencies and knowledge of appropriate intervention measures;
- (D) indicators of gang involvement;
- (E) intervention techniques for problem or conflict resolution, diffusion of anger, and de-escalation methods;
- (F) principles of trauma-informed care and trauma-specific intervention; and
- (G) report writing and documentation methods.

- (3) Each staff member shall complete at least 20 clock-hours of in-service training each



year. In-service training topics shall be based on individual job duties and responsibilities, meet individual learning needs, and be designed to maintain the knowledge and skills needed to comply with facility policies and procedures and the regulations governing facilities.

(4) At least one staff member who is counted in the ratio of direct care staff members to residents and who has current certification in first aid and current certification in cardiopulmonary resuscitation shall be at the facility at all times.

(5) If nonprescription or prescription medication is administered to residents, each permittee and each licensee shall designate staff members to administer the medication. Before administering any medication, each designated staff member shall receive training in medication administration approved by the secretary. (Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

K.A.R. 28-4-1256. Records. (a) Recordkeeping system. Each applicant, each permittee, and each licensee shall ensure that there is an organized recordkeeping system for the facility, which shall include the following:

(1) Provisions shall be made for the identification, security, confidentiality, control, retrieval, preservation, and retirement of all resident, staff member, volunteer, and facility records.

(2) All records shall be available at the facility for review by the department.

(b) Resident records.

(1) Each permittee and each licensee shall maintain an individual record for each resident, which shall include the following information:

(A) Documentation of the preadmission screening;

(B) the admissions form;

(C) verification of custody status of the resident;

(D) a record of the resident's personal possessions as specified in K.A.R. 28-4-1258;

(E) a health record that meets the requirements in K.A.R. 28-4-1259;

(F) a copy of each written report of any incidents involving the resident and specified in K.A.R. 28-4-1257 and K.A.R. 28-4-1264;

(G) documentation of the resident's receipt of the facility rule book; and

(H) the individualized plan of care.

(2) Provisions shall be made for the transfer of a resident's record upon release of the resident to another child care facility. The record shall precede the resident or accompany the resident to that child care facility. All information that cannot be transferred at the time of the

release of the resident shall be transferred within 72 hours of the release of the resident.

(3) Information from a resident's record shall not be released without written permission from the court, the Kansas department for children and families, or the resident's parent or legal guardian.

(c) Staff member records. Each permittee and each licensee shall maintain an individual record for each staff member, which shall include the following information:

(1) The application for employment, including the staff member's qualifications, references, and dates of previous employment;

(2) a copy of each applicable current professional license, certificate, or registration;

(3) the staff member's current job responsibilities;

(4) a health record that meets the requirements in K.A.R. 28-4-1259(f), including a record of the results of each health examination and each tuberculosis test;

(5) a copy of a valid driver's license of a type appropriate for the vehicle being used, for each staff member who transports any resident;

(6) documentation of all orientation and in-service training required in K.A.R. 28-4-1255(k);

(7) documentation of training in medication administration if medication administration is included in the staff member's job duties;

(8) a copy of each grievance or incident report concerning the staff member, including documentation of the resolution of each report; and

(9) documentation that the staff member has read, understands, and agrees to all of the following:

(A) The requirements for mandatory reporting of suspected child abuse, neglect, and exploitation;

(B) all regulations governing facilities;

(C) the facility's policies and procedures that are applicable to the job responsibilities of the staff member; and

(D) the confidentiality of resident information.

(d) Volunteer records. Each permittee and each licensee shall maintain an individual record for each volunteer at the facility, which shall include the following information:

(1) The application for volunteering at the facility;

(2) the volunteer's responsibilities at the facility;

(3) a health record that meets the requirements in K.A.R. 28-4-1259(f), including a record of the results of each health examination and each tuberculosis test, for each volunteer in contact with residents;

(4) documentation of all orientation and in-service training required for volunteers in K.A.R. 28-4-1255(k);

(5) a copy of each grievance or incident report concerning the volunteer, including documentation of the resolution of each report; and

(6) documentation that the volunteer has read, understands, and agrees to all of the following:

(A) The requirements for mandatory reporting of suspected child abuse, neglect, and exploitation;

(B) all regulations governing facilities;

(C) the facility's policies and procedures that are applicable to the responsibilities of the volunteer; and

(D) the confidentiality of resident information.

(e) Facility records. Each applicant, each permittee, and each licensee shall ensure that the facility records are completed and maintained. These records shall include the following information:

(1) Documentation of the requests submitted to the department for background checks in order to meet the requirements of K.A.R. 28-4-1253;

(2) documentation of notification to the school district as specified in K.A.R. 28-4-1251(f);

(3) documentation of each approval granted by the secretary for each change, exception, or amendment;

(4) the facility's policies and procedures;

(5) all documentation specified in K.A.R. 28-4-1264 for emergency plans, fire and tornado drills, and written policies and procedures on the security and control of the residents;

(6) all documentation specified in K.A.R. 28-4-1264 for the inspection and the

maintenance of security devices, including locking mechanisms and any delayed-exit mechanisms on doors;

(7) documentation of approval of any private water or sewage systems as specified in K.A.R. 28-4-1265;

(8) documentation of compliance with all applicable building codes, fire safety requirements, and zoning codes;

(9) all documentation specified in K.A.R. 28-4-1268 for transportation;

(10) documentation of vaccinations for any animal kept on the premises, as required by K.A.R. 28-4-1269(c); and

(11) a copy of each contract and each agreement. (Authorized by K.S.A. 2013 Supp. 65-508 and 65-535; implementing K.S.A. 65-507 and K.S.A. 2013 Supp. 65-508, 65-516, and 65-535; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

K.A.R. 28-4-1257. Notification and reporting requirements. (a) Each permittee and each licensee shall ensure that notification of each of the following is submitted verbally or in writing after discovery of the incident or event, but no later than 24 hours after the discovery:

(1) Each instance of suspected abuse or neglect of a resident shall be reported to the Kansas department for children and families and to law enforcement.

(2) Each incident resulting in the death of any resident shall be reported to the following:

(A) Law enforcement;

(B) the resident's parent or legal guardian;

(C) the resident's placing agent;

(D) the Kansas department for children and families; and

(E) the department.

(3) Each incident resulting in the death of a staff member or a volunteer while on duty at the facility shall be reported to the department and to any other entities in accord with the facility's policies.

(4) Each incident resulting in a serious injury to any resident, including burns, lacerations, bone fractures, substantial hematomas, and injuries to internal organs, shall be reported to the following:

(A) The parent or legal guardian of any resident involved in the incident;

(B) the placing agent of any resident involved in the incident;

(C) the Kansas department for children and families; and

(D) the department.

(5) Each incident of suspected sexual assault involving a resident as a victim or as a

perpetrator shall be reported to the following:

- (A) Law enforcement;
- (B) the Kansas department for children and families;
- (C) the resident's parent or legal guardian;
- (D) the resident's placing agent; and
- (E) the department.

(6) Each suicide attempt by a resident shall be reported to the following:

- (A) The resident's parent or legal guardian;
- (B) the resident's placing agent;
- (C) the Kansas department for children and families; and
- (D) the department.

(7) Each natural disaster shall be reported to the department.

(8) Each instance of work stoppage shall be reported to the department.

(9) Each incident that involves a riot or the taking of hostages shall be reported to the department.

(10) Each fire shall be reported to the department and to the state fire marshal.

(11) Each incident that involves any suspected illegal act committed by a resident while in the facility or by a staff member or a volunteer while on duty at the facility shall be reported to law enforcement and the department in accord with the facility's policies.

(12) If any resident, staff member, or volunteer contracts a reportable infectious or contagious disease specified in K.A.R. 28-1-2, the permittee or licensee shall ensure that a report



is submitted to the local county health department within 24 hours, excluding weekends and holidays.

(b) Each permittee and each licensee shall complete a written report within five calendar days after the discovery of any incident or event identified in subsection (a). A copy of each written report shall be kept on file at the facility. (Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

K.A.R. 28-4-1258. Admission and release. (a) Policies and procedures. Each permittee and each licensee shall implement policies and procedures for the admission and release of residents.

(b) Authorization of admission. Each permittee and each licensee shall ensure that no individual is admitted to the facility unless the placement is authorized by the revised Kansas code for the care of children, K.S.A. 2013 Supp. 38-2201 et seq., and K.S.A. 2013 Supp. 65-535, and amendments thereto.

(c) Preadmission health screening. Each individual who shows evidence of being physically ill, injured, or under the influence of alcohol or drugs shall be assessed in accordance with the facility's policies and procedures to determine the appropriateness of admission and the need for immediate medical care.

(d) Admission procedures. Each permittee and each licensee shall ensure that the admission procedures include the following:

(1) Informing each resident, or the resident's legal guardian if the resident is unable to understand, of the purposes for which information is obtained and the manner in which the information will be used;

(2) completing an admission form, including verification of custody status and a life history of each resident;

(3) completing a health history checklist on a form approved by the department;

(4) completing an inventory that documents each resident's clothing and personal possessions;

(5) distributing personal hygiene items;

(6) providing for a shower and hair care;

(7) issuing clean, laundered clothing, if necessary; and

(8) assigning each resident to a sleeping room.

(e) Guardianship. No permittee, licensee, staff member, or volunteer shall accept permanent legal guardianship of a resident.

(f) Release procedures. Each permittee and each licensee shall ensure that the following procedures are followed when a resident is released from a facility:

(1) Procedures for the release of a resident shall include the following:

(A) Verification of the identification and the authority of the individual to whom the resident is being released;

(B) verification of the identity of the resident;

(C) transportation arrangements;

(D) instructions for forwarding mail; and

(E) return of personal property to the resident, including a receipt for all personal property, signed by the resident.

(2) Facility release forms shall be signed and dated by the individual to whom the resident is released and by the staff member releasing the resident. (Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

K.A.R. 28-4-1259. Health care. (a) Policies and procedures for resident health care. Each permittee and each licensee, in consultation with a physician, shall implement written policies and procedures that include provisions for the following:

(1) Completion of a health checklist and review for each resident upon admission, including the following:

(A) Current physical health status, including oral health;

(B) all allergies, including medication, food, and plant;

(C) all current pain, including cause, onset, duration, and location;

(D) preexisting medical conditions;

(E) current mood and affect;

(F) history and indicators of self-harming behaviors or suicidal tendencies;

(G) all infectious or contagious diseases;

(H) documentation of current immunizations specified in K.A.R. 28-1-20 or documentation of an exemption for medical or religious reasons pursuant to K.S.A. 65-508, and amendments thereto;

(I) all drug or alcohol use;

(J) all current medications;

(K) all physical disabilities;

(L) all sexually transmitted diseases; and

(M) if a female resident, menstrual history and any history of pregnancy;

(2) follow-up health care, including a health assessment and referrals for any concerns identified in the health checklist and review;

(3) if medically indicated, all required chronic care, convalescent care, and preventive care, including immunizations;

(4) care for minor illness, including the use and administration of prescription and nonprescription drugs;

(5) care for residents under the influence of alcohol or other drugs;

(6) infection-control measures and universal precautions to prevent the spread of blood-borne infectious diseases, including medically indicated isolation; and

(7) maternity care as required by K.A.R. 28-4-279.

(b) Physical health of residents. Each permittee and each licensee shall ensure that emergency and ongoing medical and dental care is obtained for each resident by providing timely access to basic, emergency, and specialized medical, mental health, and dental care and treatment services provided by qualified providers.

(1) Each permittee and each licensee shall ensure that a health checklist is completed for each resident at the time of admission by the staff member who admits the resident. The health checklist shall serve as a guide to determine if a resident is in need of medical or dental care and to determine if the resident is using any prescribed medications.

(2) Each permittee and each licensee shall ensure that a licensed physician, a physician's assistant operating under a written protocol as authorized by a responsible physician, or an APRN operating under a written protocol as authorized by a responsible physician and operating under the APRN's scope of practice is contacted for any resident who is taking a prescribed medication at the time of admission, to assess the need for continuation of the medication.

(3) Each change of prescription or directions for administering a prescription medication shall be ordered by the authorized medical practitioner with documentation placed in the resident's record. Prescription medications shall be administered only to the designated resident as ordered by the authorized medical practitioner.

(4) Nonprescription and prescription medication shall be administered only by a designated staff member who has received training on medication administration approved by the secretary. Each administration of medication shall be documented in the resident's record with the following information:

- (A) The name of the staff member who administered the medication;
- (B) the date and time the medication was given;
- (C) each change in the resident's behavior, response to the medication, or adverse reaction;
- (D) each alteration in the administration of the medication from the instructions on the medication label and documentation of the alteration; and
- (E) each missed dose of medication and documentation of the reason the dose was missed.

(5) Within 72 hours of each resident's admission, a licensed physician, a physician's assistant operating under a written protocol as authorized by a responsible physician, an APRN, or a nurse approved to conduct health assessments shall review the health checklist. Based upon health indicators derived from the checklist, the reviewing physician, physician's assistant, APRN, or nurse shall conduct a health assessment.

(6) Each permittee and each licensee shall ensure that a licensed physician, a physician's assistant operating under a written protocol as authorized by the responsible physician, or an APRN operating under a written protocol as authorized by a responsible physician and operating within the APRN's scope of practice is contacted for each resident who has acute symptoms of illness or who has a chronic illness.

(7) Each permittee and each licensee shall ensure that the following procedures are followed for providing tuberculosis tests for residents:

(A) Each resident shall receive a tuberculosis test unless the resident has had a tuberculosis test within the last 12 months.

(B) A chest X-ray shall be taken of each resident who has a positive tuberculosis test or a history of a positive tuberculosis test, unless a chest X-ray was completed within the 12 months before the current admission to the facility.

(C) The results of the tuberculosis test, X-rays, and treatment shall be recorded in the resident's record, and the county health department shall be kept informed of the results.

(D) Compliance with the department's tuberculosis prevention and control program shall be followed for the following:

(i) Tuberculosis tests;

(ii) treatment; and

(iii) a resident's exposure to active tuberculosis disease.

(8) Each permittee and each licensee shall ensure that the use of tobacco in any form by any resident while in care is prohibited.

(c) Emergency medical treatment. Each permittee and each licensee shall ensure that the following requirements are met for the emergency medical treatment of residents:

(1) The resident's medical record and health assessment forms shall be taken to the emergency room with the resident.

(2) A staff member shall accompany the resident to emergency care and shall remain with the resident while the emergency care is being provided or until the resident is admitted. This arrangement shall not compromise the direct supervision of the other residents in the facility.

(d) Oral health of residents. Each permittee and each licensee shall ensure that the following requirements are met for the oral health of residents:

(1) Dental care shall be available for all residents.

(2) Each resident who has not had a dental examination within the 12 months before admission to the facility shall have a dental examination no later than 60 calendar days after admission.

(3) Each resident shall receive emergency dental care as needed.

(4) A plan shall be developed and implemented for oral health education and staff supervision of residents in the practice of good oral hygiene.

(e) Personal health and hygiene of residents. Each permittee and each licensee shall ensure that the following requirements are met for the personal health and hygiene of the residents:

(1) Each resident shall have access to drinking water, a lavatory, and a toilet.



(2) Each resident shall be given the opportunity to bathe upon admission and daily.

(3) Each resident shall be provided with toothpaste and an individual toothbrush.

(4) Each resident shall be given the opportunity to brush that resident's teeth after each meal.

(5) Opportunities shall be available to each resident for daily shaving and haircuts as needed.

(6) Each resident's washable clothing shall be changed and laundered at least twice a week. Clean underwear and socks shall be available to each resident on a daily basis.

(7) Each female resident shall be provided personal hygiene supplies for use during that resident's menstrual cycle.

(8) Clean, individual washcloths and bath towels shall be issued to each resident at least twice each week.

(9) Each resident shall be allowed to have at least eight hours of sleep each night.

(f) Personal health of staff members and volunteers.

(1) Each staff member and each volunteer shall meet the following requirements:

(A) Be free from all infectious or contagious disease requiring isolation or quarantine as specified in K.A.R. 28-1-6;

(B) be free of any physical, mental, or emotional health condition that adversely affects the individual's ability to fulfill the responsibilities listed in the individual's job description and to protect the health, safety, and welfare of the residents; and

(C) be free from impaired ability due to the use of alcohol, prescription or

nonprescription drugs, or other chemicals.

(2) Each staff member and each volunteer who has contact with any resident or who is involved in food preparation or service shall have received a health assessment within one year before employment. This assessment shall be conducted by a licensed physician, a physician's assistant operating under a written protocol as authorized by a responsible physician, or a nurse authorized to conduct these assessments.

(3) The results of each health assessment shall be recorded on forms provided by the department and shall be kept in the staff member's or volunteer's record.

(4) A health assessment record may be transferred from a previous place of employment if the assessment occurred within one year before the staff member's employment at the facility and if the assessment was recorded on the form provided by the department.

(5) The initial health examination of each staff member and each volunteer shall include a tuberculosis test. If there is a positive tuberculosis test or a history of a previous positive tuberculosis test, a chest X-ray shall be required unless there is documentation of a normal chest X-ray within the last 12 months. Proof of proper treatment, according to the department's tuberculosis prevention and control program's direction, shall be required. Documentation of each tuberculosis test, X-ray, and treatment results shall be kept on file in the individual's health record.

(A) Compliance with the department's tuberculosis prevention and control program shall be required following each exposure to active tuberculosis disease. The results of tuberculosis tests, X-rays, and treatment shall be recorded in the individual's health record.

(B) Each volunteer shall present documentation showing no active tuberculosis before serving in the facility.

(6) If a staff member experiences a significant change in physical, mental, or emotional health, including showing any indication of substance abuse, an assessment of the staff member's current health status may be required by the permittee, the licensee, or the secretary. A licensed health care provider who is qualified to diagnose and treat the condition shall conduct the health assessment. A written report of the assessment shall be kept in the staff member's record and shall be submitted to the secretary on request.

(g) Each permittee and each licensee shall ensure that tobacco products are not used inside the facility. Tobacco products shall not be used by staff members or volunteers in the presence of residents. (Authorized by K.S.A. 2013 Supp. 65-508 and 65-535; implementing K.S.A. 65-507, K.S.A. 2013 Supp. 65-508, and K.S.A. 2013 Supp. 65-535; effective,

T-\_\_\_\_\_, \_\_\_\_\_; effective

P-\_\_\_\_\_.)

K.A.R. 28-4-1260. Case management. Each permittee and each licensee shall ensure that case management services are provided to each resident.

(a) Each permittee and each licensee shall ensure that a case manager is assigned to provide or coordinate the case management services for each resident.

(b) Each permittee and each licensee shall ensure that a plan of care is developed and implemented for each resident with input, as appropriate, of the resident, the placing agent, the resident's parent or legal guardian, and staff members. The plan shall list goals for the resident while at the facility and upon release and shall identify the services needed by the resident to meet the goals. (Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

K.A.R. 28-4-1261. Program. (a) Policies and procedures. Each permittee and each licensee shall implement policies and procedures for the program. Discrimination against any resident on the basis of color, race, gender, religion, national origin, age, sexual preference, or disability shall be prohibited.

(b) Daily routine. Each permittee and each licensee shall maintain a written schedule and daily routine for all residents during all waking hours, which shall include the following:

- (1) Meals;
- (2) personal hygiene;
- (3) physical exercise;
- (4) recreation;
- (5) mental health services; and
- (6) education.

(c) Each permittee and each licensee shall ensure that the daily routine includes time for rest and sleep adequate for each resident.

(d) Classroom instruction. Each permittee and each licensee shall ensure that classroom instruction is provided to each resident on-site by teachers holding appropriate licensure from the Kansas department of education.

(1) The staff members shall coordinate education services with the local school district.

(2) The staff members shall provide a regular schedule of instruction and related educational services for each resident.

(3) Direct care staff members shall be stationed in proximity to the classroom, with

frequent, direct, physical observation of the classroom activity at least every 15 minutes, to provide immediate support to the teacher.

(e) Library services.

(1) Reading and other library materials shall be provided to each resident.

(2) Library materials shall be appropriate for various levels of competency.

(3) Reading material shall reflect a variety of interests.

(f) Recreation.

(1) Each facility shall have indoor and outdoor equipment and recreational areas where security and visual supervision can be easily maintained. Unless restricted for health reasons, each resident shall be allowed to engage in supervised indoor or outdoor recreation on a daily basis.

(2) Art and craft supplies, books, current magazines, games, and other indoor recreational materials shall be provided for leisure time activities.

(g) Work. Each permittee and each licensee shall ensure that the following requirements are met when residents participate in work activities:

(1) Work assignments shall not be used as a substitute for recreation.

(2) Residents shall be prohibited from performing any of the following duties:

(A) Providing personal services for the staff members;

(B) cleaning or maintaining areas away from the facility;

(C) replacing staff members; or

(D) engaging in any work classified as hazardous by the Kansas department of labor's regulations governing child labor.

(h) Plan of care. Each permittee and each licensee shall ensure that the individualized plan of care for each resident is reviewed and updated based on the needs of the resident. In addition to the services required in subsections (b) through (g), the plan of care shall include the following:

(1) Mental health, substance abuse, and life skills training based on individual needs of the resident; and

(2) any restrictions on visitation or communication.

(i) Mental health services. Each permittee and each licensee shall ensure that mental health services are provided as needed to each resident, by a clinical director and appropriate staff members.

(j) Substance abuse screening and treatment. Each permittee and each licensee shall ensure that substance abuse screening and treatment services are provided as needed to each resident, by a substance abuse counselor and appropriate staff members.

(k) Life skills training. Each permittee and each licensee shall ensure that life skills training is provided as needed to each resident, by designated staff members. The resident's plan of care shall include the following:

(1) Life skills training appropriate to the age and developmental level of the resident, including daily living tasks, money management, and self-care;

(2) direct services, including assistance with career planning and housing; and

(3) referrals for community resources, including educational opportunities.

(1) Visitation and communication. Each permittee and each licensee shall implement policies and procedures for visitation and communication by residents with individuals outside of the facility. The policies and procedures shall include the following:

(1) Private telephone conversations and visitations shall be allowed, except when a need to protect the resident is indicated as documented in the resident's individual plan of care or as specified by court order.

(2) No resident shall be denied the right to contact an attorney or court counselor. No court counselor or attorney shall be refused visitation with a resident to whom the counselor or attorney is assigned.

(3) No staff member shall open or censor mail or written communication, unless there is reason to believe that one of the following conditions exists:

(A) The mail or communication contains items or goods that are not permitted in the facility.

(B) The security of the facility is at risk.

(C) The safety or security of the resident is at risk.

(4) The conditions under which mail or communication shall be opened by staff in the presence of the resident shall be specified.

(5) If mail or communication is to be censored, the resident shall be informed in advance.

(6) The censorship of mail or written communication shall be included in the resident's plan of care.



(7) The reason for each occasion of censorship shall be documented and kept in the resident's record.

(8) Writing materials and postage for the purposes of correspondence shall be available to each resident. Materials and postage for at least two letters each week shall be provided for each resident.

(9) First-class letters and packages shall be forwarded after the transfer or release of each resident. (Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective,

T-\_\_\_\_\_, \_\_\_\_\_; effective

P-\_\_\_\_\_.)

K.A.R. 28-4-1262. Behavior management. (a) Policies and procedures. Each permittee and each licensee shall implement policies and procedures for the behavior management of residents.

(1) Written policies shall provide for a behavior management system that assists residents to develop inner control and manage their own behavior in a socially acceptable manner.

Procedures and practice shall include expectations that are age-appropriate and allow for special abilities and limitations.

(2) Written rules of conduct shall define expected behaviors.

(A) A rule book describing the expected behaviors shall be given to each resident and each direct care staff member.

(B) An acknowledgment of receipt of the rule book shall be signed by each resident and kept in each resident's file.

(C) If a literacy or language problem prevents a resident from understanding the rule book, a staff member or translator shall assist the resident in understanding the rules.

(3) Each staff member and each volunteer who has direct contact with residents shall be informed of the rules of resident conduct, the rationale for the rules, and the intervention options available for problem or conflict resolution, diffusion of anger, and de-escalation methods.

(b) Prohibited punishment. Each permittee and each licensee shall ensure that each resident is protected against all forms of neglect, exploitation, and degrading forms of discipline.

(1) No staff member or volunteer shall use any of the following means or methods of punishment of a resident:

(A) Punishment that is humiliating, frightening, or physically harmful to the resident;

(B) corporal punishment, including hitting with the hand or any object, yanking arms or

pulling hair, excessive exercise, exposure to extreme temperatures, and any other measure that produces physical pain or threatens the resident's health or safety;

(C) restricting movement by tying or binding;

(D) confining a resident in a closet, box, or locked area;

(E) forcing or withholding food, rest, or toilet use;

(F) mental and emotional cruelty, including verbal abuse, derogatory remarks about a resident or the resident's family, statements intended to shame, threaten, humiliate, or frighten the resident, and threats to expel a resident from the facility; or

(G) placing soap, or any other substance that stings, burns, or has a bitter taste, in the resident's mouth or on the tongue or any other part of the resident's body.

(2) No staff member or volunteer shall make sexual remarks or advances toward, or engage in physical intimacies or sexual activities with, any resident.

(3) No staff member or volunteer shall exercise undue influence or duress over any resident, including promoting sales of services or goods, in a manner that would exploit the resident for the purpose of financial gain, personal gratification, or advantage of the staff member, volunteer, or a third party.

(c) Medications, remedies, and drugs. Each staff member and each volunteer shall be prohibited from using medications, herbal or folk remedies, or drugs to control or manage any resident's behavior, except as prescribed by a licensed physician, a physician's assistant operating under a written protocol as authorized by a responsible physician, or an APRN operating under a written protocol as authorized by a responsible physician and operating under

the APRN's scope of practice.

(d) Publicity or promotional activities. No resident shall be forced to participate in publicity or promotional activities. (Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

K.A.R. 28-4-1263. Staff member schedule; supervision of residents. (a) Staff member schedule.

(1) Each permittee and each licensee shall develop and implement a written daily staff member schedule. The schedule shall meet the requirements for the staffing ratios of direct care staff members to residents at all times.

(A) The schedule shall provide for sufficient staff members on the living unit to provide direct supervision to the residents at all times and to provide for each resident's physical, social, emotional, and educational needs.

(B) The schedule shall provide for a minimum staffing ratio of one direct care staff member on active duty to four residents during waking hours and one direct care staff member on active duty to seven residents during sleeping hours.

(C) At least one direct care staff member of the same sex as the residents shall be present, awake, and available to the residents at all times. If both male and female residents are present in the facility, at least one male and one female direct care staff member shall be present, awake, and available.

(2) At no time shall there be fewer than two direct care staff members present on the living unit when one or more residents are in care.

(3) Alternate qualified direct care staff members shall be provided for the relief of the scheduled direct care staff members on a one-to-one basis and in compliance with the staffing ratios of direct care staff members to residents.

(4) Only direct care staff members shall be counted in the required staffing ratio of direct care staff members to residents.

(b) Supervision of residents.

(1) No resident shall be left unsupervised.

(2) Electronic supervision shall not replace the ratio requirements.

(3) Staff members shall know the location of each resident at all times.

(c) Movements and activities of residents. Each permittee and each licensee shall implement policies and procedures for determining when the movements and activities of a resident could, for treatment purposes, be restricted or subject to control through increased direct supervision. (Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

K.A.R. 28-4-1264. Emergency plan; safety, security, and control. (a) Emergency plan. Each permittee and each licensee shall implement an emergency plan to provide for the safety of residents, staff members, volunteers, and visitors in emergencies.

(1) The emergency plan shall include the following information:

(A) Input from local emergency response entities, including the fire departments and law enforcement;

(B) the types of emergencies likely to occur in the facility or near the facility, including fire, weather-related events, missing or runaway residents, chemical releases, utility failure, intruders, and an unscheduled closing;

(C) the types of emergencies that could require evacuating the facility and the types that could require the residents, staff members, volunteers, and visitors to shelter in place;

(D) participation in community practice drills for emergencies;

(E) procedures to be followed by staff members in each type of emergency;

(F) designation of a staff member to be responsible for each of the following:

(i) Communicating with emergency response resources, including the fire department and law enforcement;

(ii) ensuring that all residents, staff members, volunteers, and visitors are accounted for;

(iii) taking the emergency contact numbers and a cell phone; and

(iv) contacting the parent, legal guardian, or placing agent of each resident;

(G) the location and means of reaching a shelter-in-place area in the facility, including safe movement of any resident, staff member, volunteer, or visitor with special health care or mobility needs; and

(H) the location and means of reaching an emergency site if evacuating the facility, including the following:

(i) Safely transporting the residents, including residents with special health care or mobility needs;

(ii) transporting emergency supplies, including water, food, clothing, blankets, and health care supplies; and

(iii) obtaining emergency medical care.

(2) The emergency plan shall be kept on file in the facility.

(3) Each staff member shall be informed of and shall follow the emergency plan.

(4) The emergency plan shall be reviewed annually and updated as needed.

(5) The location and means of reaching the shelter-in-place area or an emergency site if evacuating the facility shall be posted in a conspicuous place in the facility.

(b) Fire drills. Each permittee and each licensee shall ensure that a fire drill is conducted at least quarterly and is scheduled to allow participation by each resident. The date and time of each drill shall be recorded and kept on file at the facility for one calendar year.

(c) Tornado drills. Each permittee and each licensee shall ensure that a tornado drill is conducted at least quarterly and is scheduled to allow participation by each resident. The date and time of each drill shall be recorded and kept on file at the facility for one calendar year.

(d) Facility security and control of residents. Each permittee and each licensee shall implement policies and procedures that include the use of a combination of direct supervision, inspection, and accountability to promote safe and orderly operations. The policies and



procedures shall include all of the following requirements:

(1) Written operational shift assignments shall state the duties and responsibilities for each assigned staff member.

(2) Supervisory staff shall maintain a permanent log and prepare shift reports that record routine and emergency situations.

(3) All security devices, including locking mechanisms on doors and any delayed-exit mechanisms on doors, shall have current written approval from the state fire marshal and shall be regularly inspected and maintained, with any corrective action completed as necessary and recorded.

(4) The use of mace, pepper spray, and other chemical agents shall be prohibited.

(5) No resident shall have access to any weapons.

(6) Provisions shall be made for the control and use of keys, tools, medical supplies, and culinary equipment.

(7) No resident or group of residents shall exercise control or authority over another resident, have access to the records of another resident, or have access to or the use of keys that control security.

(8) Provisions shall be made for handling runaways and unauthorized absences of residents.

(9) Provisions shall be made for safety and security precautions pertaining to any vehicles used to transport residents.

(10) Provisions shall be made for the prosecution of any illegal act committed while the

resident is in care.

(11) Provisions shall be made for documentation of all incidents, including riots and the taking of hostages.

(A) A written report of each incident shall be submitted to the administrator no later than the end of the shift during which the incident occurred. A copy of each report shall be kept in the record of each resident involved in the incident.

(B) A report of each incident shall be made as required in K.A.R. 28-4-1257.

(12) Provisions shall be made for the control of prohibited items and goods, including the screening and searches of residents and visitors and searches of rooms, spaces, and belongings.

(13) Requirements shall be included for 24-hour-a-day observation of all facility entrances and exits by an auxiliary staff member.

(e) Storage and use of hazardous substances and unsafe items. Each permittee and each licensee shall ensure that the following requirements are met for storage and use of hazardous substances and unsafe items:

(1) No resident shall have unsupervised access to poisons, hazardous substances, or flammable materials. These items shall be kept in locked storage when not in use.

(2) Provisions shall be made for the safe and sanitary storage and distribution of personal care and hygiene items. The following items shall be stored in an area that is either locked or under the control of staff members:

(A) Aerosols;

(B) alcohol-based products;

(C) any products in glass containers; and

(D) razors, blades, and any other sharp items.

(3) Policies and procedures shall be developed and implemented for the safe storage and disposal of prescription and nonprescription medications.

(A) All prescription and nonprescription medications shall be stored in a locked cabinet located in a designated area accessible to and supervised by only staff members.

(B) All refrigerated medications shall be stored under all food items in a locked refrigerator, in a refrigerator in a locked room, or in a locked medicine box in a refrigerator.

(C) Medications taken internally shall be kept separate from other medications.

(D) All unused medications shall be accounted for and disposed of in a safe manner, including being returned to the pharmacy, transferred with the resident, or safely discarded.

(4) Each facility shall have first-aid supplies, which shall be stored in a locked cabinet located in a designated area accessible to and supervised by only staff members. First-aid supplies shall include the following supplies:

(A) Assorted adhesive strip bandages;

(B) adhesive tape;

(C) a roll of gauze;

(D) scissors;

(E) a package of gauze squares;

(F) liquid soap;

(G) an elastic bandage;

(H) tweezers;

(I) rubbing alcohol; and

(J) disposable nonporous gloves in assorted sizes. (Authorized by and implementing  
K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-\_\_\_\_\_,  
\_\_\_\_\_; effective P-\_\_\_\_\_.)

K.A.R. 28-4-1265. Environmental requirements. (a) General building requirements.

(1) Each applicant, each permittee, and each licensee shall ensure that the facility is connected to public water and sewage systems, where available. If public water and sewage systems are not available, each applicant shall obtain approval for any private water and sewage systems by the health authorities having jurisdiction over private water and sewage systems where the facility is located.

(2) A licensed architect shall be responsible for the plans for any newly constructed building or for any major addition or major alteration to an existing building.

(A) For a new building, preliminary plans and outline specifications, including plot plans, shall be submitted to the department for review before beginning the final working drawings and specifications. Each applicant, each permittee, and each licensee shall submit the final working drawings, construction specifications, and plot plans to the department for review and written approval before the letting of contracts.

(B) For an addition or alteration to an existing building, each applicant, each permittee, and each licensee shall submit a written statement defining the proposed use of the construction and detailing the plans and specifications to the department for review and written approval before beginning construction.

(C) If construction is not begun within one year of submitting a proposal for a new building or an addition or alteration to an existing building, each licensee shall resubmit the plans and proposal to the department before proposed construction begins.

(b) Location and grounds requirements. Each permittee and each licensee shall ensure

that the following requirements are met for the location and grounds of the facility:

(1) Community resources, including health services, police protection, and fire protection from an organized fire department, shall be available.

(2) There shall be at least 100 square feet of outside activity space available for each resident allowed to utilize each outdoor area at any one time.

(3) The outside activity area shall be free of physical hazards.

(4) Residents of the facility shall not share space with another child care facility for any indoor or outdoor activities.

(c) Swimming pools. Each permittee and each licensee shall ensure that the following requirements are met if a swimming pool is located on the premises:

(1) The pool shall be constructed, maintained, and used in a manner that safeguards the lives and health of the residents.

(2) Legible safety rules shall be posted for the use of a swimming pool in a conspicuous location. If the pool is available for use, each permittee and each licensee shall read and review the safety rules weekly with each resident.

(3) An individual with a lifesaving certificate shall be in attendance when residents are using a swimming pool.

(4) Each inground swimming pool shall be enclosed by a fence at least five feet high. Each gate in the fence shall be kept closed and shall be self-locking. The wall of a building

containing a window designed to open or a door shall not be used in place of any side of the fence.

(5) Each aboveground swimming pool shall be at least four feet high or shall be enclosed by a fence at least five feet high with a gate that is kept closed and is self-locking. Steps shall be removed and stored away from the pool when the pool is not in use. Each aboveground pool with a deck or berm that provides a ground-level entry on any side shall be treated as an in-ground pool.

(6) Sensors shall not be used in place of a fence.

(7) The water shall be maintained between pH 7.2 and pH 7.8. The water shall be disinfected by free available chlorine between 1.0 parts per million and 3.0 parts per million, by bromine between 1.0 parts per million and 6.0 parts per million, or by an equivalent agent approved by the local health department.

(8) If a stabilized chlorine compound is used, the pH shall be maintained between 7.2 and 7.7 and the free available chlorine residual shall be at least 1.50 parts per million.

(9) The pool shall be cleaned and the chlorine or equivalent disinfectant level and pH level shall be tested every two hours during periods of use.

(10) The water temperatures shall be maintained at no less than 82 degrees Fahrenheit and no more than 88 degrees Fahrenheit while the pool is in use.

(11) Each swimming pool more than six feet in width, length, or diameter shall be equipped with either a ring buoy and rope or a shepherd's hook. The equipment shall be of sufficient length to reach the center of the pool from each edge of the pool.

(d) Structural requirements and use of space. Each permittee and each licensee shall ensure that the facility design, structure, interior and exterior environment, and furnishings promote a safe, comfortable, and therapeutic environment for the residents.

(1) Each facility shall be accessible to and usable by individuals with disabilities.

(2) Each facility's structural design shall facilitate personal contact and interaction between staff members and residents.

(3) Each sleeping room shall meet the following requirements:

(A) Each room shall be assigned to and occupied by only one resident.

(B) No resident's room shall be in a basement.

(C) The minimum square footage of floor space shall be 80 square feet. At least one dimension of the usable floor space unencumbered by furnishings or fixtures shall be at least seven feet.

(D) The minimum ceiling height shall be seven feet eight inches over at least 90 percent of the room area.

(E) An even temperature of between 68 degrees Fahrenheit and 78 degrees Fahrenheit shall be maintained, with an air exchange of at least four times each hour.

(F) Each sleeping room shall have a source of natural light.

(G) Access to a drinking water source and toilet facilities shall be available 24 hours a day.

(H) A separate bed with a level, flat mattress in good condition shall be provided for each resident. All beds shall be above the floor level.



(I) Clean bedding, adequate for the season, shall be provided for each resident. Bed linen shall be changed at least once a week or, if soiled, more frequently.

(4) Adequate space for study and recreation shall be provided.

(5) Each living unit shall contain the following:

(A) Furnishings that provide sufficient seating for the maximum number of residents expected to use the area at any one time;

(B) writing surfaces that provide sufficient space for the maximum number of residents expected to use the area at any one time; and

(C) furnishings that are consistent with the needs of the residents.

(6) Each facility shall have adequate central storage for household supplies, bedding, linen, and recreational equipment.

(7) If a facility has one or more dayrooms, each dayroom shall provide space for a variety of resident activities. Dayrooms shall be situated immediately adjacent to the residents' sleeping rooms, but separated from the sleeping rooms by a floor-to-ceiling wall. Each dayroom shall provide at least 35 square feet for each resident, exclusive of lavatories, showers, and toilets, for the maximum number of residents expected to use the dayroom area at any one time.

(8) Each room used for sports and other physical activities shall provide floor space equivalent to at least 100 square feet for each resident utilizing the room for those purposes at any one time.

(9) Sufficient space shall be provided for visitation between residents and visitors. The facility shall have space for the screening and search of residents and visitors, if screening and

search are included in the facility's policies and procedures. Private space shall be available for searches as needed. Storage space shall be provided for the secure storage of visitors' coats, handbags, and other personal items not allowed into the visitation area.

(10) A working telephone shall be accessible to staff members in all areas of the building. Emergency numbers, including those for the fire department, the police, a hospital, a physician, the poison control center, and an ambulance, shall be posted by each telephone.

(11) A service sink and a locked storage area for cleaning supplies shall be provided in a room or closet that is well ventilated and separate from kitchen and living areas.

(e) Bathrooms and drinking water. Each permittee and each licensee shall ensure that the following requirements are met for bathrooms and drinking water at the facility:

(1) For each eight or fewer residents of each sex, at least one toilet, one lavatory, and either a bathtub or a shower shall be provided. All toilets shall be above floor level.

(2) Each bathroom shall be ventilated to the outdoors by means of either a window or a mechanical ventilating system.

(3) Toilet and bathing accommodations and drinking water shall be in a location accessible to sleeping rooms and living and recreation rooms.

(4) Drinking water and at least one bathroom shall be accessible to the reception and admission areas.

(5) Cold water and hot water not exceeding 120 degrees Fahrenheit shall be supplied to lavatories, bathtubs, and showers.

(6) Liquid soap, toilet paper, and paper towels shall be available in all bathrooms.

(f) Building maintenance standards. Each permittee and each licensee shall ensure that the following requirements are met for building maintenance of the facility:

- (1) Each building shall be clean at all times and free from vermin infestation.
- (2) The walls shall be smooth, easily cleanable, and sound. Lead-free paint shall be used on all painted surfaces.
- (3) The floors and walking surfaces shall be kept free of hazardous substances at all times.
- (4) The floors shall not be slippery or cracked.
- (5) Each rug or carpet used as a floor covering shall be slip-resistant and free from tripping hazards. A floor covering, paint, or sealant shall be required over concrete floors for all buildings used by the residents.
- (6) All bare floors shall be swept and mopped daily.
- (7) A schedule for cleaning each building shall be established and maintained.
- (8) Washing aids, including brushes, dish mops, and other hand aids used in dishwashing activities, shall be clean and used for no other purpose.
- (9) Mops and other cleaning tools shall be cleaned and dried after each use and shall be hung on racks in a well-ventilated place.
- (10) Pesticides and any other poisons shall be used in accordance with the product instructions. These substances and all other poisons shall be stored in a locked area.
- (11) Toilets, lavatories, sinks, and other such accommodations in the living areas shall

be cleaned each day. (Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535;  
effective, T-\_\_\_\_\_, \_\_\_\_\_; effective  
P-\_\_\_\_\_.)

K.A.R. 28-4-1266. Food services. Each permittee and each licensee shall ensure that food preparation, service, safety, and nutrition meet the requirements of this regulation. For purposes of this regulation, “food” shall include beverages.

(a) Sanitary practices. Each individual engaged in food preparation and food service shall use sanitary methods of food handling, food service, and storage.

(1) Only authorized individuals shall be in the food preparation area.

(2) Each individual who has any symptoms of an illness, including fever, vomiting, and diarrhea, shall be excluded from the food preparation area and shall remain excluded from the food preparation area until the individual has been asymptomatic for at least 24 hours or provides the administrator with written documentation from a health care provider stating that the symptoms are from a noninfectious condition.

(3) Each individual who contracts any infectious or contagious disease specified in K.A.R. 28-1-6 shall be excluded from the food preparation area and shall remain excluded from the food preparation area until the isolation period required for that disease is over or until the individual provides the administrator with written documentation from a health care provider that the individual is no longer a threat to the health and safety of others when preparing or handling food.

(4) Each individual with an open cut or abrasion on the hand or forearm or with a skin sore shall cover the sore, cut, or abrasion with a bandage before handling or serving food.

(5) The hair of each individual shall be restrained when the individual is handling food.

(6) Each individual handling or serving food shall comply with both of the following requirements for handwashing:

(A) Each individual shall wash that individual's hands and exposed portions of the individual's arms before working with food, after using the toilet, and as often as necessary to keep the individual's hands clean and to minimize the risk of contamination.

(B) Each individual shall use an individual towel, disposable paper towels, or an air dryer to dry that individual's hands.

(7) Each individual preparing or handling food shall minimize bare hand and bare arm contact with exposed food that is not in a ready-to-eat form.

(8) Except when washing fruits and vegetables, no individual handling or serving food may contact exposed, ready-to-eat food with the individual's bare hands.

(9) Each individual shall use single-use gloves, food-grade tissue paper, dispensing equipment, or utensils, including spatulas and tongs, when handling or serving exposed, ready-to-eat food.

(b) Nutrition.

(1) The meals and snacks shall meet the nutritional needs of the residents. The meals and snacks shall include a variety of healthful foods, including fresh fruits, fresh vegetables, whole grains, lean meats, and low-fat dairy products. A sufficient quantity of food shall be prepared for each meal to allow each resident second portions of bread and milk and either vegetables or fruit.

(2) Special diets shall be provided for residents for either of the following reasons:

(A) Medical indication; or

(B) accommodation of religious practice.

(3) Each meal shall be planned and the menu shall be posted at least one week in

advance. A copy of the menu of each meal served for the preceding month shall be kept on file and available for inspection.

(c) Food service and preparation areas. If food is prepared on the facility premises, the food preparation area shall be separate from the eating area, activity area, laundry area, and bathrooms and shall not be used as a passageway during the hours of food preparation and cleanup.

(1) All surfaces used for food preparation and tables used for eating shall be made of smooth, nonporous material.

(2) Before and after each use, all food preparation surfaces shall be cleaned with soapy water and sanitized by use of a solution of one ounce of bleach to one gallon of water or a sanitizing solution used in accordance with the manufacturer's instructions.

(3) Before and after each use, the tables used for eating shall be cleaned by washing with soapy water.

(4) All floors shall be swept daily and mopped when spills occur.

(5) Garbage shall be disposed of in a garbage disposal or in a covered container. If a container is used, the garbage shall be removed at the end of each day or more often as needed to prevent overflow or to control odor.

(6) Each food preparation area shall have handwashing fixtures equipped with soap and hot and cold running water and with individual towels, paper towels, or air dryers. Each sink used for handwashing shall be equipped to provide water at a temperature of at least 100 degrees Fahrenheit. The water temperature shall not exceed 120 degrees Fahrenheit.

(A) If the food preparation sink is used for handwashing, the sink shall be sanitized before using it for food preparation by use of a solution of 1/4 cup of bleach to one gallon of water.

(B) Each facility with 25 or more residents shall be equipped with handwashing fixtures that are separate from the food preparation sink.

(7) Clean linen used for food preparation or service shall be stored separately from soiled linen.

(d) Food storage and refrigeration. All food shall be stored and served in a way that protects the food from cross-contamination.

(1) Nonrefrigerated food.

(A) All food not requiring refrigeration shall be stored at least six inches above the floor in a clean, dry, well-ventilated storeroom or cabinet in an area with no overhead drain or sewer lines and no vermin infestation.

(B) Dry bulk food that has been opened shall be stored in metal, glass, or food-grade plastic containers with tightly fitting covers and shall be labeled with the contents and the date opened.

(C) Food shall not be stored with poisonous or toxic materials. If cleaning agents cannot be stored in a room separate from food storage areas, the cleaning agents shall be clearly labeled and kept in locked cabinets not used for the storage of food.

(2) Refrigerated and frozen food.

(A) All perishables and potentially hazardous foods requiring refrigeration shall be



continuously maintained at 41 degrees Fahrenheit or lower in the refrigerator or 0 degrees Fahrenheit in the freezer.

(B) Each refrigerator and each freezer shall be equipped with a visible, accurate thermometer.

(C) Each refrigerator and each freezer shall be kept clean inside and out.

(D) All food stored in the refrigerator shall be covered, wrapped, or otherwise protected from contamination. Unserved, leftover perishable foods shall be dated, refrigerated immediately after service, and eaten within three days.

(E) Raw meat shall be stored in the refrigerator in a manner that prevents meat fluids from dripping on other foods.

(F) Ready-to-eat, commercially processed foods, including luncheon meats, cream cheese, and cottage cheese, shall be eaten within five days after opening the package.

(3) Hot foods.

(A) Hot foods that are to be refrigerated shall be transferred to shallow containers in layers less than three inches deep and shall not be covered until cool.

(B) Potentially hazardous cooked foods shall be cooled in a manner to allow the food to cool within two hours from 135 degrees Fahrenheit to 70 degrees Fahrenheit or within six hours from 135 degrees Fahrenheit to 41 degrees Fahrenheit.

(e) Meals or snacks prepared on the premises.

(1) All of the following requirements shall be met when meals or snacks are prepared on the facility premises:

(A) All dairy products shall be pasteurized. Powdered milk shall be used for cooking only.

(B) Meat shall be obtained from government-inspected sources.

(C) Raw fruits and vegetables shall be washed thoroughly before being eaten or used for cooking.

(D) Frozen foods shall be defrosted in the refrigerator, under cold running water, in a microwave oven using the defrost setting, or during the cooking process. Frozen foods shall not be defrosted by leaving them at room temperature or in standing water.

(E) Cold foods shall be maintained and served at temperatures of 41 degrees Fahrenheit or less.

(F) Hot foods shall be maintained and served at temperatures of at least 140 degrees Fahrenheit.

(2) The following foods shall not be served or kept:

(A) Home-canned food;

(B) food from dented, rusted, bulging, or leaking cans; and

(C) food from cans without labels.

(f) Meals or snacks catered. The following requirements shall be met for each meal or snack that is not prepared on the facility premises:

(1) The snack or meal shall be obtained from a child care facility licensed by the department or from a food service establishment or a catering service licensed by the secretary of the Kansas department of agriculture.

(2) If food is transported to the facility, only food that has been transported promptly in clean, covered containers shall be served to the residents.

(g) Table service and cooking utensils.

(1) All of the table service, serving utensils, and food cooking or serving equipment shall be stored in a clean, dry location at least six inches above the floor. None of these items shall be stored under an exposed sewer line or a dripping water line or in a bathroom.

(2) Clean table service shall be provided to each resident, including dishes, cups or glasses, and forks, spoons, and knives, as appropriate for the food being served.

(A) Clean cups, glasses, and dishes designed for repeat use shall be made of smooth, durable, and nonabsorbent material and shall be free from cracks or chips.

(B) Disposable, single-use table service shall be of food grade and medium weight and shall be disposed of after each use.

(3) If nondisposable table service and cooking utensils are used, the table service and cooking utensils shall be sanitized using either a manual washing method or a mechanical dishwasher.

(A) If using a manual washing method, all of the following requirements shall be met:

(i) A three-compartment sink with hot and cold running water to each compartment and a drainboard shall be used for washing, rinsing, sanitizing, and air-drying.

(ii) An appropriate chemical test kit, a thermometer, or another device shall be used for testing the sanitizing solution and the water temperature.

(B) If using a mechanical dishwasher, the dishwasher shall be installed and operated in

accordance with the manufacturer's instructions and shall be maintained in good repair.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508; effective, T- \_\_\_\_\_,  
\_\_\_\_\_; effective P-\_\_\_\_\_.)

K.A.R. 28-4-1267. Laundry. (a) If laundry is done at the facility, each permittee and each licensee shall ensure that the laundry sinks, the appliances, and the countertops or tables used for laundry are located in an area separate from food preparation areas and are installed and used in a manner that safeguards the health and safety of the residents. Adequate space shall be allocated for the laundry room and the storage of laundry supplies, including locked storage for all chemical agents used in the laundry area.

(b) Each permittee and each licensee shall ensure that adequate space is allocated for the storage of clean and dirty linen and clothing. Soiled linen shall be stored separately from clean linen.

(c) Each permittee and each licensee shall ensure that blankets are laundered at least once each month or, if soiled, more frequently. Blankets shall be laundered or sanitized before reissue.

(d) Each permittee and each licensee shall ensure that each mattress is water-repellent and washed down and sprayed with disinfectant before reissue. The mattress materials and treatments shall meet the applicable requirements of the state fire marshal's regulations.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508; effective, T- \_\_\_\_\_,  
\_\_\_\_\_; effective P-\_\_\_\_\_.)

K.A.R. 28-4-1268. Transportation. Each permittee and each licensee shall ensure that all of the following requirements are met when providing transportation for residents:

(a) Each permittee and each licensee shall implement policies and procedures for transportation of residents, including the following:

(1) Procedures to be followed in case of an accident, injury, or other incident as specified in K.A.R. 28-4-1257;

(2) a list of all staff members authorized to transport residents; and

(3) for each staff member authorized to transport residents, documentation of a valid driver's license that meets the requirements of the Kansas motor vehicle drivers' license act, K.S.A. 8-234a et seq. and amendments thereto.

(b) Each permittee and each licensee shall ensure that a safety check is performed on each transporting vehicle before being placed in service and annually. A record of each safety check and all repairs and improvements made shall be kept on file at the facility. When any resident is transported in a privately owned vehicle, the vehicle shall be in safe working condition.

(c) Each vehicle used to transport any resident shall be covered by accident and liability insurance as required by the state of Kansas.

(d) Each transporting vehicle owned or leased by the facility shall have a first-aid kit, which shall include disposable nonporous gloves, a cleansing agent, scissors, bandages of assorted sizes, adhesive tape, a roll of gauze, one package of gauze squares at least four inches by four inches in size, and one elastic bandage.

(e) Each vehicle used to transport any resident shall be equipped with an individual seat

belt for the driver and an individual seat belt for each passenger. The driver and each passenger shall be secured by a seat belt when the vehicle is in motion.

(f) The health and safety of the residents riding in any vehicle shall be protected.

(1) All passenger doors shall be locked while the vehicle is in motion.

(2) Order shall be maintained at all times. The driver shall be responsible for ensuring that the vehicle is not in motion if the behavior of the occupants prevents the safe operation of the vehicle.

(3) All parts of each resident's body shall remain inside the vehicle at all times.

(4) Residents shall neither enter nor exit the vehicle from or into a lane of traffic.

(5) When the vehicle is vacated, the driver shall make certain that no resident is left in the vehicle.

(6) Smoking in the vehicle shall be prohibited.

(7) Medical and surgical consent forms and health assessment records shall be in the vehicle if a resident is transported 60 miles or more from the facility.

(g) Each resident shall be transported directly to the location designated by the permittee or the licensee. No unauthorized stops shall be made along the way, except in an emergency.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508; effective,

T- \_\_\_\_\_; effective

P-\_\_\_\_\_.)

K.A.R. 28-4-1269. Animals. Each permittee and each licensee shall ensure that the following requirements are met for any animals on the facility premises:

(a) If any animals are kept on the facility premises, the pet area shall be maintained in a sanitary manner, with no evidence of flea, tick, or worm infestation.

(b) No animal shall be in the food preparation area.

(c) Each domesticated dog and each domesticated cat shall have a current rabies vaccination given by a veterinarian. A record of all vaccinations shall be kept on file in the facility.

(d) Each permittee and each licensee shall ensure that each animal that is in contact with any resident meets the following conditions:

(1) Is in good health, with no evidence of disease; and

(2) is friendly and poses no threat to the health, safety, and welfare of residents.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508; effective, T- \_\_\_\_\_,  
\_\_\_\_\_; effective P-\_\_\_\_\_.)



Date: November 14, 2013

Kansas Department of Health and Environment  
Economic Impact Statement

Pursuant to the requirements of K.S.A. 2013 Supp. 77-416, Kansas Department of Health and Environment submits the following economic impact statement concerning new regulations for staff secure facilities. The proposed regulations are needed to implement provisions of K.S.A. 2013 Supp. 65-535. These regulations are being promulgated as both temporary and permanent regulations.

**1. Regulations to be implemented:**

- K.A.R. 28-4-1250. Definitions.
- K.A.R. 28-4-1251. Applicant, permittee, and licensee requirements.
- K.A.R. 28-4-1252. Terms of a temporary permit or license.
- K.A.R. 28-4-1253. Background checks.
- K.A.R. 28-4-1254. Administration.
- K.A.R. 28-4-1255. Staff member requirements.
- K.A.R. 28-4-1256. Records.
- K.A.R. 28-4-1257. Notification and reporting requirements.
- K.A.R. 28-4-1258. Admission and release.
- K.A.R. 28-4-1259. Health care.
- K.A.R. 28-4-1260. Case management.
- K.A.R. 28-4-1261. Program.
- K.A.R. 28-4-1262. Behavior management.
- K.A.R. 28-4-1263. Staff member schedule; supervision of residents.
- K.A.R. 28-4-1264. Emergency plan; safety, security, and control.
- K.A.R. 28-4-1265. Environmental requirements.
- K.A.R. 28-4-1266. Food services.
- K.A.R. 28-4-1267. Laundry.
- K.A.R. 28-4-1268. Transportation.
- K.A.R. 28-4-1269. Animals.

**2. Brief description of each regulation and what is intended to be accomplished by adoption.**

- K.A.R. 28-4-1250. Definitions.  
Provides specific definitions of terms used in regulations for staff secure facilities.
- K.A.R. 28-4-1251. Applicant, permittee, and licensee requirements.  
Describes the application process, and states the license fee. Applicant must be a government subdivision or person with a governing board. If a corporation, must be in good standing with the Kansas secretary of state. Applicant must develop

policies and procedures for facility operation. Requires floor plan showing separation from other facilities and requires fire marshal's approval regarding safety of entrances and exits. Requires notification to local school district. Before opening date, staff must complete training. Addresses compliance with applicable building codes, fire safety requirements, and zoning codes. Secretary may refuse to grant a license if applicant is not in compliance with applicable statutes and these regulations.

K.A.R. 28-4-1252. Terms of a temporary permit or license.

Temporary permit or license required to operate a facility. Temporary permit or license valid only for permittee or licensee and specified address. Capacity shall not be exceeded. Temporary permit or license must be posted. New application required if owner or location changes. Any changes to building use, structure, program, or staff training requirements require prior approval of the secretary. Provides information on license renewal process, requests for exceptions, or amendments to the license. Addresses withdrawal of application or licensee request for closure of a facility.

K.A.R. 28-4-1253. Background checks.

Requires background checks to comply with K.S.A. 65-516.

K.A.R. 28-4-1254. Administration.

Describes requirements for facility operation, including organizational chart, administrative policies and procedures, and employing an administrator and a clinical director. Requires implementation of policies and procedures for facility operation. Confidentiality of residents' information must be ensured. The program, services, and living units must be separate from any other child care facility. Staff must be informed of and follow policies and procedures. Regulations governing facilities must be kept on premises and available to staff. Requires annual review of all contracts, agreements, policies and procedures.

K.A.R. 28-4-1255. Staff member requirements.

Requires each individual working or volunteering to be qualified by temperament, maturity, judgment, understanding of residents. Staff member performing duties of more than one position must meet requirements for both positions. Lists specific requirements for the administrator, clinical director, substance abuse counselor, case manager, professional staff, direct care staff, auxiliary staff, and volunteers. Lists orientation and in-service training requirements.

K.A.R. 28-4-1256. Records.

Requires an organized record-keeping system. Lists the required contents of records for residents, staff members, volunteers, and the facility.

K.A.R. 28-4-1257. Notifications and reporting requirements.

Lists the requirements for notification and reporting of incidents or events, by type. Requires a written report within five days after discovery of an incident or event.

K.A.R. 28-4-1258. Admission and release.

Requires implementation of policies and procedures for admissions and releases. No individual shall be admitted unless authorized by Kansas code for care of children and K.S.A. 2013 Supp. 65-535. Describes the preadmission health screening and the admissions procedures. Prohibits facility staff or volunteer from accepting permanent legal guardianship of a resident. Describes the resident release procedures.

K.A.R. 28-4-1259. Health care.

Requires implementation of policies and procedures for health care of residents, including a health checklist and follow-up care. Describes requirements for the physical health of residents, emergency medical treatment, and oral health, and personal health and hygiene. Describes requirements for personal health of staff and volunteers. Prohibits the use of tobacco products inside the facility or in the presence of residents.

K.A.R. 28-4-1260. Case management.

Requires that a case manager is assigned to provide or coordinate services to each resident. Requires a plan of care be developed and implemented for each resident with goals and services required to meet goals.

K.A.R. 28-4-1261. Program.

Requires implementation of policies and procedures for the program; prohibits discrimination against any resident. Describes the program to be provided to residents, including a daily routine, time for rest and sleep, classroom instruction, library services, recreation, and work opportunities. Individualized plan of care for each resident must be reviewed and updated; describes requirements to be included in the plan. Lists the services to be provided, including mental health, substance abuse, and life skills training. Describes requirements for visitation and communication with residents by individuals outside the facility, including mail.

K.A.R. 28-4-1262. Behavior management.

Requires implementation of policies and procedures for the behavior management of residents, including a rule book of expected behaviors. Lists the prohibited punishments; states that no staff member or volunteer shall make sexual remarks or advances to residents, engage in physical intimacies or sexual activities, or exercise undue influence or duress. Prohibits use of medication, herbal or folk remedies, or drugs to control behavior. No resident forced to participate in publicity or promotional activities.

K.A.R. 28-4-1263. Staff member schedule; supervision of residents.

Describes requirements for staff member schedules and ratios of staff members to residents. Describes requirements for supervision of residents. Requires implementation of policies and procedures for determining when increased direct supervision of a resident is required.

K.A.R. 28-4-1264. Emergency plan; safety, security and control.

Describes requirements for an emergency plan. Requires fire and tornado drills. Requires implementation of policies and procedures for supervision, inspection, and accountability to promote safe and orderly operations. Lists requirements for the policies and procedures, including prosecution of illegal acts while a resident is in care, documentation of incidents, and control of prohibited items and goods. Describes requirements for storage and use of hazardous substances and unsafe items; includes requirements for first-aid supplies.

K.A.R. 28-4-1265. Environmental requirements.

Describes general building requirements and for location and grounds. Lists the requirements if a swimming pool is on the premises. Addresses structural requirements and the use of space, including sleeping rooms, living units, and space for visitation and screening/search of residents and visitors. Describes requirements for bathrooms and drinking water. Lists the building maintenance standards.

K.A.R. 28-4-1266. Food services.

Describes requirements for sanitary practices, nutrition, food service and preparation, food storage and refrigeration, meals or snacks prepared on the premises, meals and snacks catered, table service and cooking utensils.

K.A.R. 28-4-1267. Laundry.

Requires laundry facilities be located separate from food preparation areas; adequate space for storage of clean and dirty linen and clothing; laundering of blankets; and requirements for mattresses.

K.A.R. 28-4-1268. Transportation.

Requires implementation of policies and procedures for transporting residents, safety checks for each transporting vehicle, insurance coverage, first-aid kit in each vehicle, seat belts. Describes health and safety requirements for residents riding in any vehicle. Requires each resident be transported directly to the location designated by the facility with no unauthorized stops.

K.A.R. 28-4-1269. Animals.

Lists the requirements if animals are on the premises of the facility.

**3. Are these regulations mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program?**

Yes \_\_\_\_\_

No   X  

If yes, please explain.

**4. Do the proposed regulations exceed the requirements of applicable federal law?**

Yes \_\_\_\_\_

No   X  

**5. Description of Costs:**

**(a) Cost to the agency:**

There is no additional cost to the agency. Costs will be absorbed in the current budget.

**(b) Cost to persons who will bear the costs and those who will be affected (i.e., private citizens and consumers of the products or services) and are subject to the proposed rules and regulations or the enforcement:**

These regulations were developed to implement provisions of K.S.A. 2013 Supp. 65-535, concerning human trafficking. While similar types of residential child care facilities are licensed by the department, this is a new type of residential facility. The costs are therefore unknown at this time.

**(c) Costs to other governmental agencies or units:**

There is no known additional cost associated with implementation of the facility licensing regulations.

**6. Description of any less costly or less intrusive methods that were considered by the agency for the purpose of the rules and regulations and why such methods were rejected in favor of the proposed rules and regulations.**

No less costly or intrusive methods were identified. It was determined that other types of facilities could not meet the requirements for staff secure facilities for victims of human trafficking in K.S.A. 2013 Supp. 65-535.

**7. Verification of economic impact statement with League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards.**

The above mentioned regulations were determined as appropriate for consultation as to the economic impact with the League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards, pursuant to K.S.A. 2013 Supp. 77-416.

Yes   X  

No           

**If yes:**

Date contacted and by what means (i.e., letter, FAX, etc.): The three organizations will be contacted electronically with attached copies of the proposed regulations, economic impact statement and notice of hearing at the time the notice of hearing is published in the *Kansas Register*.

**Response and comments received by:**

League of Kansas Municipalities:

Kansas Association of Counties:

Kansas Association of School Boards: